

**Remarks/Arguments:**

Claim 78-80 and 82-85 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamamoto (U.S. 5,303,247) in view of Rakuljic (U.S. 5,691,989). It is respectfully submitted, however, that these claims are patentable over the art of record for the reasons set forth below.

As explained in the above-identified application, Applicants' claims relate to a laser light source. The laser light source includes a laser, a laser amplifier, and an optical wavelength conversion element. Applicants' claim 78 defines the optical wavelength conversion element as being formed:

...with a stable proton exchange layer whose refractive index is constant at an ordinary temperature more than one day immediately after the optical wavelength conversion element is formed.

The above feature is supported by the originally filed application at page 33, line 26, through page 34, line 13, and by Fig. 13. In particular, as set forth in the originally filed application at page 34, lines 1-4:

It can be seen from these figures that the refractive index variation and the phase-matched wavelength become constant immediately after production of the element.

By contrast, in the Yamamoto prior art patent, the optical wavelength conversion element has a refractive index which varies with time after the optical wavelength conversion element is formed. Thus, Applicants' claimed feature of a refractive index which is constant "more than one day immediately after the optical wavelength conversion element is formed" is neither disclosed nor suggested by Yamamoto.

Page 4 of the outstanding Official Action argues that the Yamamoto prior art patent discloses a refractive index which does not vary with time during operation. To support this position, the Official Action cites the Yamamoto prior art patent at Column 23, line 66, through Column 24, line 16. Applicant's representative has reviewed the

above-mentioned lines of the Yamamoto prior art patent and has not found any disclosure of a refractive index which is constant "more than one day immediately after the optical wavelength conversion element is formed." To further support Applicant's position, Applicants' representative is providing a Rule 132 Declaration which is signed by Dr. Yamamoto. Dr. Yamamoto is an inventor of the above-identified application. Dr. Yamamoto is also one of the listed inventors of the Yamamoto prior art patent.

In his Declaration, Dr. Yamamoto asserts that :

...one of ordinary skill in the art associated with the '247 patent would completely disagree with an understanding that the refractive index of the optical wavelength conversion element of the '247 patent does not vary with time after the optical wavelength conversion element is formed.

Dr. Yamamoto further takes the position that one of ordinary skill in that art corresponding to the '247 patent would understand that the optical wavelength conversion element of the '247 patent does not have the feature of:

...the refractive index is constant at an ordinary temperature more than one day after the optical wavelength conversion element is formed...

In addition, Dr. Yamamoto states in his declaration that:

...the optical wavelength conversion element of the '247 patent changes in the manner illustrated by Fig. 4, Fig. 5 and Fig. 6 of the above-identified application and in the manner described in the text of the above-identified application which corresponds to Figs. 4, 5 and 6.

Thus, the above-identified application provides graphs that indicate that the proton exchange layer of the Yamamoto prior art patent has a refractive index which varies more than one day after the optical wavelength conversion element has been formed.

Thus, Dr. Yamamoto has taken a position which contradicts the position set forth in the outstanding Official Action regarding the refractive index of the proton exchange layer being constant. The following case law is particularly on point:

It is difficult to give credence to the patent office's position when the inventor of the invention cited as pertinent disagrees with its applicability.

Bowled Fluidics Base Corp. v Mossinghoff, 620 F. Supp. 1297 (D.D.C. 1985). Accordingly, on the basis of Dr. Yamamoto's Declaration, the rejection of claim 78 should be withdrawn.

The Rakuljic reference does not make up for the deficiencies of the Yamamoto prior art patent as being used in rejecting Applicants' claims. Furthermore, claims 79, 80 and 82-85 are patentable by virtue of their dependency on allowable claim 78. Accordingly, claims 78-80 and 82-85 are patentable over the art of record.

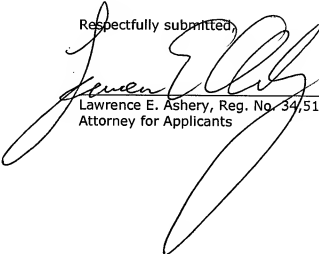
Claim 90 is newly added and is supported by the originally filed application at page 67, lines 28-29. Claim 91 is newly added and is supported both by Applicants' Fig. 13 and page 26, line 16, through page 27, line 26. No new matter has been added.

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In view of the amendments and arguments set forth above, and further in view of the enclosed Declaration, allowance of the above identified application is respectfully requested.

Respectfully submitted,



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Enclosure: Declaration

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